

Federal procurement information
Standard terms and conditions for loans and contracts using ARRA funds

To the extent that a Green Bank loan involves the use of American Recovery and Reinvestment Act of 2009, Pub. L. 111-5 ("ARRA") funds, certain federally mandated terms and conditions apply to the use of these funds by loan recipients.

1. The Loan Recipient specifically agrees to comply with each of the terms and conditions contained herein.
2. Loan Recipient understands and acknowledges that the federal stimulus process is still evolving and that new requirements for ARRA compliance may still be forthcoming from the federal government and the Commonwealth of Kentucky. Accordingly, Loan Recipient specifically agrees that both it and subcontractors/subgrantees will comply with all such requirements during the contract period.

AVAILABILITY OF FUNDING

Loan Recipient agrees that programs supported with temporary federal funds made available by the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, will not be continued with state financed appropriations once the temporary federal funds are expended.

BUY AMERICAN REQUIREMENT

Loan Recipient agrees that in accordance with ARRA, Section 1605, neither Loan Recipient or its contractors/subcontractors will use ARRA funds for a project for the construction, alternation, maintenance, or repair of a public building or public work unless all of the iron, steel and manufactured goods used in the project are produced in the United States in a manner consistent with United States obligations under international agreements. The Loan Recipient understands that this requirement may only be waived by the applicable federal agency in limited situations as set out in ARRA, Section 1605.

CONFLICTING REQUIREMENTS

Loan Recipient agrees that, to the extent ARRA requirements conflict with Commonwealth of Kentucky requirements, the ARRA requirements shall control.

FALSE CLAIMS ACT

Loan Recipient agrees that it shall promptly refer to an appropriate federal inspector general any credible evidence that a principal, employee, agent, subgrantee, subcontractor or other person has committed a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds.

ENFORCEABILITY

Loan Recipient agrees that if Contractor/Grantee of one of its subcontractors/subgrantees fails to comply with all applicable federal and state requirements governing the use of ARRA funds, the Commonwealth of Kentucky may withhold or suspend, in whole or in part, funds awarded under the program, or recover misspent funds following an audit. This provision is in addition to all other remedies available to the Commonwealth of Kentucky under all applicable state and federal laws.

INSPECTION OF RECORDS

Loan Recipient agrees that it shall permit the United States Comptroller General or his representative or the appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1978 or his representative to: (1) examine any records that directly pertain to, and involve transactions relating to, this contract; and (2) interview any officer or employee of Contractor/Grantee or any of its

subcontractors/subgrantees regarding the activities funded with funds appropriated or otherwise made available by the ARRA.

JOB POSTING REQUIREMENTS

Section 1512 of the ARRA requires states receiving stimulus funds to report on jobs created and retained as a result of the stimulus funds. Loan Recipients who receive ARRA funded contracts are required to post jobs created and retained as a result of stimulus funds on the Commonwealth of Kentucky Job Bank at: <https://e3.ky.gov/>

PROHIBITION ON USE OF ARRA FUNDS

Loan Recipient agrees that none of the funds made available under this contract may be used for any casino or other gambling establishment, aquarium, zoo, golf course, swimming pools, or similar projects.

REPORTING REQUIREMENTS

Pursuant to Section 1512 of the ARRA, state agencies receiving ARRA funds must submit a report to the federal government no later than ten (10) calendar days after the end of each calendar quarter. This report must contain the information outlined below.

Accordingly, Loan Recipient agrees to provide the Commonwealth with the following information in a timely manner:

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- a. The total amount of ARRA funds received by Loan Recipient during the Reporting Period;
- b. The amount of ARRA funds that were expended or obligated during the Reporting Period;
- c. A detailed list of all projects or activities for which ARRA funds were expending or obligated, including:
 - I. The name of the project or activity;
 - II. A description of the project or activity;
 - III. An evaluation of the completion status of the project or activity; and
 - IV. An estimate of the number of jobs created and the number of jobs retained by the project or activity;
- d. For any subcontracts or subgrants equal to or greater than \$25,000:
 - i. The name of the entity receiving the subaward;
 - ii. The amount of the subaward;
 - iii. The transaction type;
 - iv. The North American Industry Classification System (NAICS) code or
 - v. Catalog of Federal Domestic Assistance (CFDA) number;
 - vi. Program source;
 - vii. An award title descriptive of the purpose of each funding action;
 - viii. The location of the entity receiving the subaward;
 - ix. The primary location of the subaward, including the city, state, congressional district and country; and
 - x. A unique identifier of the entity receiving the sub-award and the parent entity of Loan Recipient, should the entity be owned by another.
- xi. The names and total compensation of the five most highly compensated officers of the company if it received: 1) 80% or more of its annual gross revenues in Federal awards; and 2) \$25M or more in annual gross revenue from Federal awards.

e. For any contractors or subcontractors of less than \$25,000 or to individuals, the information required in 4 may be reported in the aggregate and requires the certification of an authorized agent of Loan Recipient that the information contained in the report is accurate.

f. Any other information reasonably requested by the Commonwealth or required by state or federal law or regulation.

Standard data elements and federal instructions for use in complying with reporting requirements under Section 1512 of the ARRA, are pending review by the federal government, and were published in the Federal Register on April 1, 2009 [74 FR 14824], and are to be provided online at <http://www.FederalReporting.gov>.

SEGREGATION OF FUNDS

Loan Recipient agrees that it shall segregate obligations and expenditures of Recovery Act funds from other funding. No part of funds made available under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may be comingled with any other funds or used for a purpose other than that of making payments for costs allowable under the ARRA.

SUBRECEIPIENT REQUIREMENTS

Loan Recipient agrees that it shall include these standard terms and conditions, including this requirement, in any of its subcontracts or subgrants in connection with projects funded in whole or in part with funds available under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5.

WAGE REQUIREMENTS

Loan Recipient agrees that, in accordance with Section 1606 of the ARRA, both it and its subcontractors shall fully comply with this section in that, notwithstanding any other provision of law, and in a manner consistent with the other provisions of the ARRA, all laborers and mechanics employed by contractors and subcontractors on projects funded in whole or in part with funds available under the ARRA shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality, as determined by the United States Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40 of the United States Code. The Secretary of Labor's determination regarding the prevailing wages applicable in the Commonwealth of Kentucky are located at: <http://www.gpo.gov/davisbacon/ky.html>

WHISTLEBLOWER PROTECTION

Loan Recipient agrees that both it and its subcontractors/subgrantees shall comply with Section 1553 of the ARRA, which prohibits all non-federal Contractor/Grantees of ARRA funds, including the Commonwealth of Kentucky, and all contractors and grantees of the Commonwealth of Kentucky, from discharging, demoting or otherwise discriminating against an employee for disclosures by the employee that the employee reasonably believes are evidence of (1) gross mismanagement of a contract or grant relating to ARRA funds; (2) a gross waste of ARRA funds; (3) a substantial and specific danger to public health or safety related to the implementation or use of ARRA funds; (4) an abuse of authority related to implementation or use of ARRA funds; or (5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to ARRA funds. Contractor/Grantee agrees that it and its subcontractors/subgrantees shall post notice of the rights and remedies available to employees under Section 1553 of Title XV of Division A of the ARRA.